

AMENDMENT AFTER FINAL
October 18, 2011

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REMARKS

Claims 2 – 4, 6 – 9 and 14 – 26 remain in the application and are finally rejected. Claim 20 is amended by this proposed amendment. Claims 1, 5 and 10 – 13 are previously canceled. No new matter has been added.

Claim 20 is objected to for containing an extra “on.” Responsive thereto, claim 20 is amended by this proposed amendment as suggested by the Final Office Action (Final). No new matter has been added. Entry of the amendment, reconsideration and withdrawal of the objection to claim 20 is respectfully requested.

Claims 2 – 4, 6 – 8 and 14 – 25 are finally rejected under 35 USC §112 as being indefinite. Specifically, the Final asserts that “term ‘commercially available network’ could encompass any network capable of being sold to another, and does not provide any meaningful limit on the claims.” Final, #5, page 3. The final rejection is respectfully traversed.

Not everything that is sold and in particular, not all technology, is “commercially available.” For example, a “trade secret is a formula, practice, process, design, instrument, pattern, or compilation of information which is not generally known or reasonably ascertainable, by which a business can obtain an economic advantage over competitors or customers. In some jurisdictions, such secrets are referred to as ‘confidential information’ or ‘classified information’.” en.wikipedia.org/wiki/Trade_secret. Thus, at the time the present invention was made and, further, at the time of filing the present application, any network that was a trade secret was not commercially available. Products may be sold containing trade secrets that are protected by contractual constraints, e.g., a promise not to reverse engineer the product or not to sell the product without the same constraints. After all, the purchaser usually doesn’t care about hidden details that make something work, e.g., special hardware or protocols; just that it works.

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Neither does inclusion of a network in a product make the network commercially available, at least not within the plain meaning of a “commercially available” X. Wikipedia, for example, is rife with lists of commercially available products. *See e.g.*, “List of **commercially available** radionuclides,” en.wikipedia.org/wiki/Commercially_available_radioisotopes#List_of_commercially_available_radionuclides (emphasis added); and “List of **commercially available** roofing material,” en.wikipedia.org/wiki/List_of_commercially_available_roofing_material (emphasis added). Inherent in these examples is that there may very well be radionuclides and roofing materials that are not commercially available.

More particularly, in a contemporaneous 2002 Award by the U.S. Department of Health and Human Services (HHS), “[w]e plan to upgrade our existing DATAMAX recorder design and use **commercially available network** technology to develop NDA.” NETWORK DATA ACQUISITION SYSTEM NEUROSCIENCE RESEARCH, Abstract, www.sbir.gov/sbirsearch/detail/287083. Clearly, the US Government, under the guise of HHS, recognized contemporaneously at the time the application was filed, that “commercially available network” had a plain meaning to those skilled in the art (MPEP §2111.01); and further, did not “encompass any network capable of being sold to another,” as the Final asserts. Therefore, the inclusion of “commercially available” in claims 2 – 4, 6 – 8 and 14 – 25 does not make those claims indefinite. Reconsideration and withdrawal of the final rejection of claims 2 – 4, 6 – 8 and 14 – 25 under 35 USC §112 is respectfully requested.

Claims 2, 3, 14 – 17, 19 – 21 and 23 are finally rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 6,825,943 to Barry et al. in view of U.S. Patent No. 6,327,050 to Motamed et al. and U.S. Patent No. 5,434,967 to Tannenbaum. Claim 4 is finally rejected under 35 USC §103(a) as being unpatentable over Barry et al., Motamed et al. and Tannenbaum in further view of U.S. Patent No. 5,946,460 to Hohensee et al. Claims 6, 7, 9, 25 and 26 are finally rejected under 35 USC §103(a) as

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being unpatentable over Barry et al. and Motamed et al. Claim 8 is finally rejected under 35 USC §103(a) as being unpatentable over Barry et al. and Motamed et al. in further view of U.S. Patent No. 6,364,050 to Noyes. Claim 18 is finally rejected under 35 USC §103(a) as being unpatentable over Barry et al., Motamed et al. and Tannenbaum in further view of U.S. Patent No. 7,016,061 to Hewitt and U.S. Patent No. 6,219,151 to Manglapus. Claim 22 is finally rejected under 35 USC §103(a) as being unpatentable over Barry et al., Motamed et al. and Tannenbaum in further view of Manglapus. Claim 24 is finally rejected under 35 USC §103(a) as being unpatentable over Barry et al., Motamed et al. and Tannenbaum in further view of Hewitt.

Responding to the previous amendment, the Final continues to rely on Motamed et al. to show multiple print head drivers passing processed data, now over a commercially available network, based on the prior assertion that "Motamed '050 discloses that the RIPs are connected to one or more video print machines 64 via a high speed interconnect bus 74 (col. 7, lines 26-35)," asserting that "[b]ecause the high speed interconnect bus 74 is part of a standard computer system (col. 6, lines 45-59, any standard hardware or software RIP may be used in connection with the various modules which comprise the invention), the network can be considered a commercially available network." Final, #1.a, page 2.

As applicants have previously noted, using video print machines through a high speed interconnect bus is quite different than a network, commercially available or otherwise. Multiple processors may share memory over a high speed memory bus, for example. That high speed memory bus would by no means be considered a network, proprietary, commercially available or otherwise. Accordingly, using video print machines through a high speed interconnect bus neither teaches or suggests: transferring signals between the RIPs and print heads packaged in a transport protocol; nor transferring signals over a commercially available network(s) between the RIPs and print heads, as the claims recite. Neither is it taught or suggested by any reference of record.

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Moreover, “[t]he job server is implemented on a PC platform and includes a PCI card slot 69 that receives an integrated compression PCI card 68.” Motamed et al. col. 7, lines 10 – 12. “Each RIP in this embodiment of the invention includes a PCI card slot 71, 73 that receives an integrated compression PCI card 70, 72.” *Id.*, lines 21 – 24. Thus, clearly, the Motamed et al. high speed interconnect bus 74 is based on the PCI bus, which transfers multiple parallel bytes of data at data rates much higher than typical commercially available networks; and, is not considered a commercially available network. The Motamed et al. high speed interconnect bus 74 is clearly unidirectional, indicated by the single headed arrows, not bidirectional as recited by claims 14 and 20.

Furthermore, having provided evidence that the Government has previously recognized that “commercially available network” has, and had a plain meaning to those skilled in the art at the time the application was filed, maintaining the rejection requires an evidentiary showing that the Motamed et al high speed interconnect bus 74, both would have been considered by a person skilled in the art to be a network and was a commercially available as a network. No such showing has been made to date. Therefore, Motamed et al. in combination with Barry et al. and Tannenbaum, alone or further in combination with any other reference(s) of record, neither teaches, suggests nor results in the present invention as recited in finally rejected claims 2 – 4, 6 – 8 and 14 – 25.

The Final further responds that “Barry ‘943 discloses the global communication network requires a computer at one location to send a TCP/IP packet of information to the network that is routed to another location which then handles this packet and forwards information back to the originating computer in return (col. 14, lines 43-58).” Final, #1.b, page 2. “The global communication network (GCN) 1002 is typically referred to as the ‘Internet.’” Barry et al. There is nothing in Barry et al., Motamed et al., Tannenbaum, or any other reference of record to teach or suggest replacing a high speed interconnect bus with the Internet 1002.

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Moreover, such a modification would clearly change a Motamed et al. principle of operation, i.e., replacing the Motamed et al. high speed interconnect bus with the Internet 1002, which would considerably slow communications. "A multiple raster image processor (RIP) system which enables **faster system performance** over multiple processors includes a zero RIP feature consisting of a language interpreter sub-RIP that interprets a print instruction file but does not process the graphics rendering steps or the post-language processing operators." Motamed et al. Abstract, lines 1 – 6 (emphasis added); and see, col. 2, lines 2 – 5, 8 – 10, and 20 – 25, col. 3, lines 7 – 9 and 33 – 35, col. 4, lines 55 – 60, and col. 5, lines 15 – 23. "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)" MPEP §2143.01. Therefore, the combination of Barry et al. with Motamed et al. and any other reference of record to result in the present invention is "not sufficient to render the claims *prima facie* obvious." *Id.*

Neither does Hohensee et al., Manglapus, Hewitt or Noyes add what is missing from Barry et al., Motamed et al. and Tannenbaum to result in the present invention as recited in claims 6, 9, 14 and 20, as rejected or as amended. Therefore, Barry et al. in combination with Motamed et al. and Tannenbaum, alone, or further in combination with Hohensee et al., Manglapus, Hewitt and/or Noyes or any other reference of record, neither teaches, suggests, results in nor makes *prima facie* obvious, the present invention as recited in finally rejected claims 2 – 4, 6 – 9 and 14 – 26. Reconsideration and withdrawal of the final rejection of claims 2 – 4, 6 – 9 and 14 – 26 under 35 USC §103(a) is respectfully requested.

The applicants thank the Examiner for efforts, both past and present, in examining the application. Believing the application to be in condition for allowance, both for the amendment to the claims and for the reasons set forth above, the applicants respectfully

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request that the Examiner enter the amendment, reconsider and withdraw the objection to claim 20, reconsider and withdraw the final rejection of claims 2 - 4, 6 - 8 and 14 - 25 under 35 U.S.C. §112, reconsider and withdraw the final rejection of claims 2 - 4, 6 - 9 and 14 - 26 under 35 U.S.C. §103(a) and allow the application to issue.

As previously noted, MPEP §706 "Rejection of Claims," subsection III, "PATENTABLE SUBJECT MATTER DISCLOSED BUT NOT CLAIMED" provides in pertinent part that

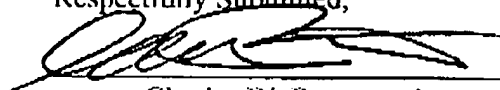
If the examiner is satisfied after the search has been completed that patentable subject matter has been disclosed and the record indicates that the applicant intends to claim such subject matter, he or she **may note** in the Office action that **certain aspects or features** of the patentable invention have not been claimed and that if properly claimed such claims **may be given favorable consideration.** (emphasis added.)

The applicants continue to believe that the written description of the present application is quite different than, and not suggested by, any reference of record. Accordingly, should the Examiner believe anything further may be required, the Examiner is requested to contact the undersigned attorney at the local telephone number listed below for a telephonic or personal interview to discuss any other changes. Please charge any deficiencies in fees and credit any overpayment of fees to IBM Corporation Deposit Account No. 50-3669 and advise us accordingly.

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(Date)

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Respectfully Submitted,



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